

Message Text

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ACTION OPIC-06

INFO OCT-01 NEA-10 ISO-00 EB-07 L-03 /027 W

----- 009785

P 261027Z AUG 76

FM AMEMBASSY DACCA

TO SECSTATE WASHDC PRIORITY 1834

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EO 11652: N/A

TAGS: EFIN, BG

SUBJ: BELBAGCO COMPENSATION CLAIM

REF: (A) STATE 207559, (B) DACCA 4367

SUMMARY. THIS MESSAGE RESPONDS TO THE MAJORITY OF SPECIFIC REQUESTS IN REFTEL (A) AND RAISES A QUESTION CONCERNING OUR REPLY TO THE BDG LETTER OF JUNE 25. END SUMMARY.

1. STATUS OF BELBAGCO CLAIM (PARAS 3(A) & (B), REFTEL A). ECON COUNSELOR MET AUGUST 25 WITH EJAZUL HUQ, DEPUTY SECRETARY, INDUSTRIES MINISTRY, RESPONSIBLE SINCE AUGUST FIRST FOR IMPLEMENTATION AND PAYMENTS OF NATIONALIZATION COMPENSATION CLAIMS. HUQ, EX-CSP

,
HAD EARLIER BEEN PRIVATE SECRETARY TO DCMLA TAWAB AND PRESIDENT MOHAMMADULLAH. EMBASSY WILL SEND LETTER TO HUQ, ENCLOSING XERXO COPIES OF ENCLOSURES TO OPIC COUNSELOR RICHARD STERN'S JUNE 4 LETTER TO ECON COUNSELOR AND FORMALLY REQUESTING RESPONSE TO POINTS RAISED PARAS 3(A) & (B).

2. COMMENTS: (A) WE DOUBT THE BELBAGCO CLAIM HAS BEEN FULLY PERFECTED FOR THE PURPOSES OF THE SEPTEMBER 15 DEADLINE. THE APPLICATION FORM AND ATTACHMENTS DO NOT INCLUDED ANY STATE DEPARTMENT AUTHENTICATION OF THE DELAWARE STATE ATTORNEY GENERAL'S CERTIFICATE. IN ABSENCE THAT AUTHENTICATION, CONSULAR SECTION HERE IS UNABLE TO ADD ITS AUTHENTICATION AND THEREBY PROVIDE FORMALLY THE NATIONALITY CERTIFICATE REQUIRED BY SECTION C (II) OF THE APPLICATION FORM.

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FURTHERMORE, WE DOUBT THAT THE SEPTEMBER 15 DEADLINE WILL APPLY IN

THE BELBAGCO CASE; CERTAINLY, IF WE ACCEPT THE PROPOSITION IN THE JUNE 25 LETTER, THAT BELBAGCO WAS "ABANDONED" RATHER THAN "NATIONALIZED," THEN PROCEDURES FOR COMPENSATING COMPANIES NATIONALIZED UNDER P.O. 27 AND 28 WOULD NOT APPLY. IN OUR VIEW, THE OVERRIDING FIRST TASK IS TO REPLY TO THE JUNE 25 LETTER TO OBTAIN BDG ADMISSION OF THE CLAIM IN THE FIRST PLACE. IN THIS CONNECTION, WE HAVE NOT YET RECEIVED SEPTTEL REFERRED TO IN PARA 6, REFTTEL (A). PLEASE ADVISE.

(B) IN THE JUNE 25 LETTER, THE BDG IS INVITING US, IN EFFECT, TO PURSUE THIS CLAIM AGAINST THE GOVERNMENT OF PAKISTAN. IN ANY CASE, THE BDG WISHES TO AVOID ANY ACTION THAT MIGHT JEOPARDIZE ITS CLAIMS AGAINST PAKISTAN. OPIC MIGHT WISH TO DOUBLE-CHECK THAT NO SUCH CLAIMS BY FIRMS NATIONALIZED HERE HAVE BEEN ADMITTED BY THE GOVERNMENT OF PAKISTAN.

3. DOCUMENTS REQUIRED BY OPIC (PARA 4(A) 7 (B)). COPIES OF THE FOL-
LOWING WERE AIR POUCHED (REGISTRY NO. 001052) TO OPIC AUGUST 24:

- (A) PRESIDENT'S ORDER NO. 28; MARCH 26, 1972.
- (B) PRESIDENT'S ORDER NO. 48; MAY 22, 1972.
- (C) ACTING PRESIDENT'S ORDER NO. 1; JANUARY 3, 1972
- (D) EMBASSY LTR DTD APRIL 27, 1976, WITH ENCLOSURE.
- (E) EMBASSY LTR DTD JUNE 16, 1976, WITH ENCLOSURE.
- (F) EMBASSY LTR DTD APRIL 21, 1976.

(NOTE: A COPY OF THE APRIL 21 LETTER WAS ENCLOSED WITH THE APRIL 27 LETTER.) WE HAVE SOUGHT KARACHI AND ISLAMABAD'S HELP (REFTTEL B) IN OBTAINING COPIES OF COMPANIES ACT, 1913. UPON RECEIPT, WE WILL DETERMINE WHAT AMENDMENTS WERE MADE IN BANGLADESH.

4. OTHER DOCUMENTS AND DISINVESTMENT (SUB-PARAS (C) AND (D)). WE DO HAVE A FEW BDG LETTERS IN OUR FILES FROM 1972 ONWARD WHICH BEAR DIRECTLY ON THE ISSUE OF BDG CONTROL (SUB-PARA 4(C)(I)) OF BANGLADESH FABRICS, BUT IN A FIRST REVIEW OF THE FILES HAVE NOTHING RELEVANT TO THE ISSUE OF P.O. 27 VERSUS P.O. 16 (SUB-PARA 4(C)(I)). WE PLAN POUCH THIS MATERIAL OT OPIC AUGUST 27. BFC WAS NOT RPT NO REFERRED TO IN CONNECTION WITH THE BDG ANNOUNCEMENT OF ITS INTENTION TO DISINVEST CERTAIN ABANDONED PROPERTIES.

5. LAWYERS (PARA 2, REFTTEL A). OF THE THREE LAWYERS NAMED WE WOULD RECOMMEND THE FIRM OF (ALTAF) HOSSAIN AND MOINUL) HOSSAIN LIMITED OFFICIAL USE

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FIRST (WITH A PROVISIO) AND RAFIQUE UL HUQ SECOND, BUT OTHER LEADING LAWYERS MIGHT ALSO BE CONSIDERED. DETAILED COMMENTS FOLLOW:

(A) RAFIQUE UL HUQ, SENIOR MOST OF THE THREE NAMED IN PARA 2, AND FORMERLY BELBAGCO LAWYER, WAS REPORTEDLY THE CANDIDATE FOR ADDITIONAL ATTORNEY GENERAL FAVORED BY THE THEN ATTORNEY IMENERAL ISHTIAQ AHMED. AHMED'S RESIGNATION WAS OCCASIONED AT LEAST IN PART BY THE GOVERNMENT'S REFUSAL TO ACCEPT RATIQUE UL HUQ. THUS, HUG ORIGINAL QUALIFICATION NO LONGER OBTAINS. HUQ REPRESENTS

SEVERAL NATIONALIZED BANKS, WHICH COULD POSSIBLY RAISE A CONFLICT OF INTEREST QUESTION. HOWEVER, HE IS MOST FAMILIAR WITH THE BACKGROUND OF THE CLAIM.

(B) ALTAF HOSSAIN IS ONE PARTNER IN THE FIRM HOSSAIN AND HOSSAIN. THIS FIRM USED TO INCLUDE THE FORMER FOREIGN MINISTRY, KAMAL HOSSAIN, BUT THAT POTENTIALLY DAMAGING CONNECTION IN THE EYES OF THE PRESENT GOVERNMENT HAS BEEN TOTALLY SEVERED, IN THAT KAMAL HOSSAIN HAS LEFT THE FIRM ALTOGETHER. THE SECOND PARTNER IS MOINUL HOSSAIN (NO RELATION TO ALTAF), THE EX-AWAMI LEAGUE M.P. WHO RE-SIGNED IN EARLY 1975 OVER THE ISSUE OF BAKSAL (MUJIB'S SINGLE PARTY) MEMBERSHIP. A MAN OF PRINCIPLE, MOINUL HOSSAIN'S STANDING WITH THE PRESENT GOVERNMENT IS EXCELLENT. HE IS AT PRESENT ACTIVE IN THE INDOOR POLITICAL ACTIVITY HERE. GIVEN THE EXCELLENT STANDING OF MOINUL HOSSAIN, THIS FIRM IS OUR FIRST CHOICE. BOTH PARTNERS ARE COMPETENT, WITHOUT ANY APPARENT CONFLICTS OF INTEREST. HOWEVER, MOINUL POLITICAL INTERESTS COULD REDUCE THE TIME HE IS PREPARED TO DEVOTE TO THIS CASE.

(C) MOUDUD AHMED, LAW CONSULTANTS. AHMED HAS BEEN IN GERMANY FOR OVER THREE MONTHS AND IS DUE BACK SEPTEMBER FIRST. HE WAS VERY ACTIVE BEFORE HE LEFT AND DOUBTLESS WILL HAVE A LOT OF WORK AWAITING HIS ATTENTION. THUS, HE MIGHT NOT HAVE SUFFICIENT TIME FOR THIS MATTER. HE WAS ALSO MOST SUCCESSFUL TOWARD THE FREQUENTLY CASUAL DEAL

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INGS IN ABANDONED PROPERTIES IN THE FIRST MONTHS OF LIBERATION, MIGHT POSSIBLY COUNT AGAINST HIM WITH THIS GOVERNMENT. WE ASSUME THE FACT HE REPRESENTS SEVERAL NATIONALIZED FIRMS WOULD INCREASE HIS FAMILIARITY WITH THE LEGAL PROBLEMS INVOLVED AND NOT RAISE ANY CONFLICT OF INTEREST QUESTION. HE IS COMPETENT. MAINUR REZA, A PARTNER IN LAW CONSULTANTS, HELPED GIDDINGS AND LEWIS SETTLE IT COMPENSATION CLAIM; THE WHOLLY-US OWNED SCOTTISH FIRM DECIDED TO RETAIN ITS SHARE-HOLDING IN GOLFRA-HABIB.

(D) OTHER LAWYERS. MIRZA GHULAM HAFEZ IS A MOST SENIOR AND COMPETENT ADVOCATE WHO, TO DATE, HAS SUCCESSFULLY PREVENTED THE LIMITED OFFICIAL USE

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BANGLADESH TEXTILE CORPORATION FROM GAINING CONTROL OF A PRIVATE MILL, BUT AS PRESENT HEAD OF THE DACCA CHAMBER OF COMMERCE AND PRESIDENT OF THE BANGLA-CHINA FRIENDSHIP SOCIETY, IS PRACTICING LAW SOMEWHAT LESS THAN EARLIER. ASARUL HOSSAIN IS ANOTHER LEADING COUNSEL, WITH A HIGH REPUTATION AMONG LAWYERS, WHO IS THE LEGAL ADVISER FOR THE SONALI BANK. ISHTIAQ AHMED, WHOSE RECENT RESIGNATION AS ATTORNEY GENERAL SUGGEST HIS RELATIONS WITH GOVERNMENT WOULD BE STRAINED, WOULD NEVERTHELESS BRING EXTREMELY DETAILED KNOWLEDGE OF SUCH CASES AND, WE BELIEVE, CONSIDERABLE MOTIVATION TO PROSECUTING THE BELBAGCO CLAIM.
BOSTER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMPENSATION, NATIONALIZATION, BUSINESS FIRMS
Control Number: n/a
Copy: SINGLE
Draft Date: 26 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: saccheem
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976DACCA04433
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760327-0017
From: DACCA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760818/aaaaaoyz.tel
Line Count: 165
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION OPIC
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 207559, 76 DACCA 4367
Review Action: RELEASED, APPROVED
Review Authority: saccheem
Review Comment: n/a
Review Content Flags:
Review Date: 07 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 JUN 2004 by ElyME>; APPROVED <04 OCT 2004 by saccheem>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: BELBAGCO COMPENSATION CLAIM
TAGS: EFIN, EIND, BG, BELBAGCO INC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006